IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.7835/2007.

Nem Prakash Khandaka
Vs.
Raj.Information Commission & Ors.

Date of order :- 26/9/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Saransh Saini for the petitioner.

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BY THE COURT:-

Heard learned counsel for the petitioner.

Petitioner vide application dated 17/7/2006 demanded from the Public Information Officer-cum-Chief Executive Officer, Hawa Mahal Zone (West), Municipal Corporation, Jaipur copy of File No.52/2041 including the maps whereby permission was granted to him for construction of his house. When the information was not furnished, petitioner filed a complaint before the Public Information Officer on 25/9/2006 and when nothing came about, he filed an appeal before the Mayor, Municipal Corporation, Jaipur on 26/10/2006. No action was taken by the appellate authority on the appeal filed by the

petitioner and in this circumstance, he filed second appeal before the Chief Information Commissioner who vide his order dated 25/7/2007 dismissed the appeal.

Learned counsel for the petitioner argued that petitioner required aforesaid file/document contained therein for producing them in a civil litigation before the court. Respondents took a plea before the Information Commissioner that the file was missing. Learned Commissioner merely directed for holding inquiry and registering a first information report but did not impose penalty in terms of Section 20 of the Right to Information Act, 2005. It was further argued that no effort was made by the respondents to trace the file and supply documents. He therefore prayed that the order passed by the Chief Information Commissioner be set-aside and respondents be directed to provide the information sought for.

I have heard learned counsel for the petitioner and have perused the impugned-order.

It appears from the impugned-order that the respondents had been granted six adjournments and thereafter they took a defence before the Commission

that the file was missing and inspite of making their best efforts, they could not locate the file. Commissioner in his order observed that it was a serious issue that the file is missing and therefore the Commissioner Nagar Nigam should get the matter thoroughly inquired into and fix the liability of the person who was responsible for taking care of that file. Commissioner even went to the extent of directing that the first information report should be registered and the Commission be informed about the same. In the facts of the case, however, Commissioner observed that no relief can be granted.

In the circumstances therefore when the respondents have taken a specific stand that the file was not traceable and was missing, learned Commissioner cannot be said to have erred in law in passing the impugned-order because desired information could not possibly be directed to be given without the file being available. It is expected of the Chief Executive Officer, Nagar Nigam, Jaipur that the in-house inquiry desired by the Commission shall be expeditiously proceeded with fixing liability apart from registering the first

information report.

While therefore not interfering with the order of the Commissioner, I set the petitioner at liberty to make a representation to the Chief Executive Officer, Nagar Nigam, Jaipur to get the file re-constituted if possible on the basis of contemporaneous documents who shall consider the same and do the needful in accordance with law.

With these observations, the writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

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